

ORIGINAL

OPEN MEETING



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MEMORANDUM

Arizona Corporation Commission

DOCKETED

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TO: THE COMMISSION

FROM: Utilities Division

DATE: November 4, 2016

DOCKETED BY

RE: IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, FOR A DETERMINATION OF THE FAIR VALUE OF ITS UTILITY PLANT AND PROPERTY AND FOR ADJUSTMENTS TO ITS RATES AND CHARGES FOR UTILITY SERVICE FURNISHED BY ITS NORTHERN GROUP AND FOR CERTAIN RELATED APPROVALS (DOCKET NO. W-01445A-12-0348)

INTRODUCTION

Enclosed are the Arizona Corporation Commission ("ACC" or "Commission") Staff's memorandum and recommended opinion and order for the Arizona Water Company ("Company") motion to lift the stay and for reinstatement of the System Improvement Benefits mechanism (Northern Group Systems) (Docket No W-01445A-12-0348). This is only a Staff recommendation to the Commission; it has not yet become an order of the Commission. The Commission can decide to accept, amend or reject Staff's recommended opinion and order.

You may file comments to the recommendation(s) for the proposed order by filing an original and thirteen (13) copies of the comments with the Commission's Docket Control Center at 1200 W. Washington St., Phoenix, AZ 85007 on or before 4:00 p.m. on November 14, 2016.

This matter may be scheduled for Commission deliberation at its Open Meetings scheduled **November 17, 2016, at 10:00 a.m.**

If you have any questions about this matter, please contact Briton Baxter of Staff at (602) 542-7195, or Thomas Broderick, Director, at (602) 542-7270.

BACKGROUND

On September 23, 2013, the Commission issued Decision No. 74081. Among other things, this Decision approved the Company's request to implement a System Improvements Benefit mechanism ("SIB") for its Northern Group Systems. In Decision No. 75030 (April 23, 2015) the Commission approved the Plan of Administration for the SIB.

The Residential Utility Consumer Office ("RUCO") appealed the legality of the SIB and on August 18, 2015, the Arizona Court of Appeals issued an opinion in Case No. 1 CA-CC 13-0002 which set aside the Commission's approval of the SIB mechanism.

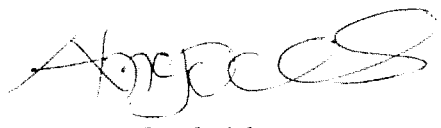
On October 27, 2015, the Commission issued Decision No. 75305 that ordered that the SIB mechanism and all compliance requirements specifically associated with the SIB be stayed pending the outcome of further court proceedings.

The Arizona Supreme Court issued a ruling on August 8, 2016, in Case No. CV-15-0281-PR, 2016 WL 4177569, that vacated the decision of the Arizona Court of Appeals, and held that the SIB "complies with the Arizona Constitution's mandate that the Commission determine the fair value of a utility's property when setting rates."

On August 23, 2016, the Company filed a Motion to Lift Stay and for Reinstatement of System Improvements Benefits Mechanism (Eastern Group Systems). In the Motion, the Company indicated that as a result of the Supreme Court decision upholding the SIB in *Residential Utility Consumer Office v. Arizona Corporation Commission*, it is now appropriate to lift the stays and reinstate the approved SIB mechanisms in this docket.

STAFF ANALYSIS AND RECOMMENDATIONS

Staff believes in light of the Supreme Court opinion upholding the legality of the SIB mechanism, that the Company's requests are reasonable and that the stay should be lifted on the SIB mechanism.


for Thomas M. Broderick
Director
Utilities Division

TMB:BAB:red\BH

ORIGINATOR: Briton Baxter

THE COMMISSION

November 4, 2016

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On this 4th day of November, 2016, the foregoing document was filed with Docket Control as a Utilities Division Memorandum & Proposed Order, and copies of the foregoing were mailed on behalf of the Utilities Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

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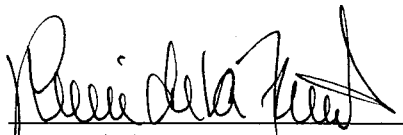
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By:



Renee de la Fuente

Administrative Support Specialist

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BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE
Chairman
BOB STUMP
Commissioner
BOB BURNS
Commissioner
TOM FORESE
Commissioner
ANDY TOBIN
Commissioner

IN THE MATTER OF THE APPLICATION
OF ARIZONA WATER COMPANY, AN
ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANT AND PROPERTY
AND FOR ADJUSTMENTS TO ITS RATES
AND CHARGES FOR UTILITY SERVICE
FURNISHED BY ITS NORTHERN GROUP
AND FOR CERTAIN RELATED
APPROVALS

DOCKET NO.
DECISION NO. _____
ORDER

Open Meeting
November 17, 2016
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes and orders that:

FINDINGS OF FACT

1. On September 23, 2013, the Commission issued Decision No. 74081. Among other things, this Decision approved the Company's request to implement a System Improvements Benefit mechanism ("SIB") for its Northern Group Systems. In Decision No. 75030 (April 23, 2015) the Commission approved the Plan of Administration for the SIB.
2. The Residential Utility Consumer Office ("RUCO") appealed the legality of the SIB and on August 18, 2015, the Arizona Court of Appeals issued an opinion in Case No. 1 CA-CC 13-0002 which set aside the Commission's approval of the SIB mechanism.

1 3. On October 27, 2015, the Commission issued Decision No. 75305 that ordered that
2 the SIB mechanism and all compliance requirements specifically associated with the SIB be stayed
3 pending the outcome of further court proceedings.

4 4. The Arizona Supreme Court issued a ruling on August 8, 2016, in Case No. CV-15-
5 0281-PR, 2016 WL 4177569, that vacated the decision of the Arizona Court of Appeals, and held that
6 the SIB "complies with the Arizona Constitution's mandate that the Commission determine the fair
7 value of a utility's property when setting rates."

8 5. On August 23, 2016, the Company filed a Motion to Lift Stay and for Reinstatement
9 of System Improvements Benefits Mechanism (Eastern Group Systems). In the Motion, the
10 Company indicated that as a result of the Supreme Court decision upholding the SIB in Residential
11 Utility Consumer Office v. Arizona Corporation Commission, it is now appropriate to lift the stays
12 and reinstate the approved SIB mechanisms in this docket.

13 **Staff Analysis and Recommendations**

14 6. Staff believes in light of the Supreme Court opinion upholding the legality of the SIB
15 mechanism, that the Company's requests are reasonable and that the stay should be lifted on the SIB
16 mechanism.

17 CONCLUSIONS OF LAW

18 1. Arizona Water Company is a public service corporation within the meaning of Article
19 XV of the Arizona Constitution.

20 2. The Commission has jurisdiction over Arizona Water Company, and the subject
21 matter of this filing.

22 3. It is in the public interest to reinstate the operation of the System Improvement
23 Benefits Mechanism approved in Decision No. 74801 and stayed in Decision No. 75305.

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ORDER

IT IS THEREFORE ORDERED that the System Improvement Benefit Mechanism stayed by Decision No. 75305 for Arizona Water Company's Eastern Group, is hereby lifted and the SIB mechanism as approved is reinstated.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN LITTLE

COMMISSIONER STUMP

COMMISSIONER FORESE

COMMISSIONER TOBIN

COMMISSIONER BURNS

IN WITNESS WHEREOF, I, JODI A. JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2016.

JODI A. JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

TMB:BAB:red/WVC

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Arizona Water Company
Docket No. W-01445A-12-0348

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